Remarks:

This application has been reviewed carefully in view of the Office Action mailed October 5, 2005, ("the Office Action"). In the Office Action, claims 1-34 were rejected under the judicially created doctrine of double patenting over claims 1-29 of U.S. Patent No. 6,550,263 ("the '263 patent"), as allegedly extending the right to exclude already granted in the patent.

Applicants appreciate the Examiner's search efforts, and note that no art was located that was closer than the art provided by the applicant, and that no art-based rejections were made.

The above-described rejection is addressed as follows:

I. CLAIM AMENDMENT

Claim 23 was amended to correct a typographical punctuation error. This amendment does not relate to patentability.

II. DOUBLE PATENTING REJECTION

"Obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is not patently distinct from the subject matter claimed in a commonly owned patent" "[T]he analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 U.S.C. 103(a) rejection" "Any obviousness-type double patenting rejection should make clear: (A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and (B) The reasons why a person of ordinary skill in the art would conclude that the invention

defined in the claim at issue would have been an obvious variation of the invention defined in a claim in the patent" (M.P.E.P. § 804(II)(B)(1), (emphasis added)).

With underlining added to emphasize certain language, the following is independent claim 1 of the present application.

> 1. A system for cooling a component with a sprayed cooling fluid, comprising:
>
> a body defining an enclosed spray chamber and a thermal-transmittance wall, wherein the wall defines an internal surface forming a boundary of the spray chamber, and wherein the wall defines an external surface configured to be retained against a portion of the component; and
>
> a sprayer configured to spray the cooling fluid onto the internal surface.

This claimed invention thus relates to a body having an enclosed chamber, a transmittance wall of the body being usable against a portion of a component to cool the component. Related limitations are present in the remaining claims of the present application.

With underlining added to emphasize certain language, the following is independent claim 1 of the '263 patent.

> 1. A system for cooling a component with a sprayed cooling fluid, comprising:
>
> a body configured with a cavity to be retained against a portion of the component;
>
> wherein when the cavity is retained against a portion of the component, the cavity is configured to form a spray chamber in which the cooling fluid can be sprayed into thermal contact with a portion of the component.

As is clear from the specification, drawings and claim language of the '263 patent, this claimed invention relates to a body having an open cavity that is retained against a portion of a component, as do the other claimed inventions recited in the

'263 patent. As such, they are all different from the present invention, which uses a body transmittance wall to cool the component.

Applicants respectfully note that under a one-way obviousness test, claim 1 of the present application is not obvious over any claim of the '263 patent. More particularly, the '263 patent fails to claim a body defining an enclosed spray chamber and a thermal-transmittance wall, wherein the wall defines an internal surface forming a boundary of the spray chamber, and wherein the wall defines an external surface configured to be retained against a portion of the component.

Applicants note that another type of nonstatutory double patenting rejection exists for unique circumstances that are limited to the set of facts set forth in the decision In Re Schneller, 397 F.2d 350, 158 U.S.P.Q. 210 (C.C.P.A. 1968). The M.P.E.P. states that such rejections will be rare, and that the approval of the TC director must be obtained before such a nonstatutory double patenting rejection can be made. Applicants note that the present case does not fit the set of facts from In re Schneller, and the Office Action does not identify this as the type of nonstatutory double patenting rejection presently made.

Because the '263 patent fails to claim a body as recited in the presently pending claims and described above, the Office Action fails to establish a prima fascia case of double patenting under the judicially created doctrine of double patenting. Applicants respectfully request the double patenting rejection of claims 1-34 be withdrawn.

III. CONCLUSION

In view of the foregoing, the Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Patel et al.

By: _____

John A. Griecci
Registration No. 39,694
For: The Law Office of John A. Griecci

703 Pier Avenue, Suite B #657
Hermosa Beach, CA 90254
(310) 376-6527